

# Order of Selection

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## **State Unified Plan**

As per the "Funding Section" of the State Unified Plan, the following attachments to the state plans for vocational rehabilitation as attachments to the State Unified Plan provide a series of descriptions of the activities that will be pursued using vocational rehabilitation funding under Title IV of the State Unified Plan:

- 1) State's strategies and use of Title I funds for innovations and expansion activities - Attachment 4.11(d).
- 2) Quality, scope, and extent of supported employment services - Attachment 6.3.
- 3) Order of Selection - 4.11(c)(3).

The Division of Rehabilitation Services (DRS) implemented an order of selection on October 1, 2006. Implementing an order of selection was due to experiencing a regular increase in consumers and case service expenditures during the five previous years. During this five year time period, the number of consumers has increased from 4,664 in SFY 01 to 5,790 in SFY 05. This is an increase of 1,126 consumers which is a 24% increase. The case service expenditures have increased from \$4,722,081 in SFY 01 to \$6,055,931 in SFY 05. This is an increase of \$1,333,850 in expenses. Approximately \$1,000,000 of this increase was just in the past fiscal year. It is anticipated that this growth will continue with increase expenditures of \$750,000 each year. The Division of Rehabilitation Services does not have sufficient Federal and State funds available to continue this level of increased expenditures and serve all eligible consumers. When this situation happens, we are required by law to implement an Order of Selection.

The Division is co-located with the South Dakota Care Centers in nine of the twelve locations. The agencies have a collaborative partnership and referrals are made between agencies. Individuals who are impacted by the Order of Selection will be referred to other Workforce partners.

The public vocational rehabilitation program funding requirements are clearly outlined in the section of the State Unified Plan containing the Memorandum of Understanding. All funding determinations are made at the state level by the Workforce Development Council and the relevant state agencies. Public vocational rehabilitation is in full control of expenditure of all Title IV federal funds.

## **Order of Selection**

With the continued increase in consumers and case service costs, it will not be possible to provide the full range of vocational rehabilitation services in a timely manner to all eligible individuals with disabilities who apply and are found eligible for such services. The Division of Rehabilitation Services (DRS or Division) will implement this Order of Selection Policy for this State Plan year. Procedures for implementing an order of selection for the provision of vocational rehabilitation services shall be determined on the basis of first serving those eligible individuals who meet the definition established by the State of an "individual with the most significant disabilities," followed by individuals with significant disabilities, then individuals with disabilities.

When implementing an order of selection, the Division will provide training to its staff on the process and procedures. A major component of the training will be the priority category classification that is done for every individual who is determined eligible. The training will also include ways to maximize the

utilization of comparable benefits for all consumers. This approach will assist the division in an effort to stretch the current available dollars to the maximum extent possible and reduce the impact of the order of selection.

When an order of selection is in effect, DRS will provide all eligible individuals with disabilities who do not meet the order of selection criteria with information about, and referral to, other Federal or State programs (including other components of the statewide workforce investment system) that can assist them in preparing for, securing, retaining, or regaining employment.

## **Definitions**

**“Individual With A Disability”** means an individual -

- i. Has a physical or mental impairment;
- ii. Whose impairment constitutes or results in a substantial impediment to employment and;
- iii. Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

**“Individual with a Significant Disability”** means an individual with a disability -

- i. Who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;
- ii. Whose vocational rehabilitation can be expected to require *multiple vocational rehabilitation services* over an *extended period of time*; and
- iii. Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (B) of paragraph (2) to cause comparable substantial functional limitation.

**“Multiple VR Services”** means three or more services as listed under Section 103 (a) of the Rehabilitation Act, as Amended in 1998.

**“Extended Period Of Time”** means that the active eligible status of the case is projected to be six months or more.

**“Individual with a Most Significant Disability”** means an individual with a disability who meets the criteria for having a significant disability and *in addition* has serious limits in two or more functional capacities (such as, but not limited to, mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome. Individuals who meet the criteria for Priority Level I are determined to be individuals with the “Most Significant Disability”.

**“Seriously Limits” or “Substantial Impediment to Employment”** means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, communication, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capabilities.

### **Order of Selection Priority Categories**

**PRIORITY CATEGORY I** - Are individuals who meet the definition of individuals with the most significant disabilities which seriously limits them in two or more functional capacities.

**PRIORITY CATEGORY II**- Are individuals who meet the definition of individuals with significant disabilities which seriously limits them in one functional capacity.

**PRIORITY CATEGORY III**- Individuals with disabilities.

### **Seriously Limits In Functional Capacities due to a disability**

- 1. Mobility** - refers to the capability of moving efficiently from place to place.
- 2. Communication** - refers to accurate and efficient transmission and/or reception of information, either verbally (spoken or written) or non-verbally.
- 3. Self-care** - refers to the skills necessary to fulfill basic needs such as those related to health, safety, food preparation and nutrition, hygiene and grooming, and money management.
- 4. Self Direction** - describes the capacity to organize, structure and manage activities in a manner that best serves the objectives of the individual. Adequate self-direction requires that an individual be able to plan, initiate and monitor behavior with respect to an identified outcome.
- 5. Interpersonal Skills** - refers to the ability of the individual to interact in a socially acceptable and mature manner with co-workers, supervisors, and others to facilitate the normal flow of work activities.
- 6. Work Tolerance** – refers to the ability to carry out required physical and cognitive work tasks in an efficient and effective manner over a sustained period of time.
- 7. Work Skills** – refers to the specific job skills required to carry out work functions as well as the capacity for an individual to benefit from training in these work functions.

## **Projected Costs, Outcomes and Service Goals**

### **Division of Rehabilitation Services**

#### **PROJECTED COSTS, SERVICE GOALS AND OUTCOMES FOR THE PERIOD**

**OCTOBER 1, 2007 – SEPTEMBER 30, 2008**

<b>PRIORITY CATEGORIES</b>	<b>ESTIMATED NUMBER TO BE SERVED</b>	<b>OUTCOMES: ESTIMATED NUMBER TO BE REHABILITATED</b>	<b>PROJECTED COSTS</b>
Individuals currently being served under Individualized Plan for Employment (IPE)	3,295	801	\$4,679,466
Priority I Eligibility	1,377	47	\$995,636
Priority II Eligibility	425	11	\$305,230
Priority III Eligibility	30	0	\$19,668
<b>TOTAL</b>	<b>5,127</b>	<b>856</b>	<b>\$6,000,000.00</b>

Note: If an order of selection is implemented after the beginning of the FFY, the estimated numbers of consumers served and consumers rehabilitated, and projected costs will be prorated based upon the implementation date of the order of selection.

### **Restrictions On Establishing Priorities**

The following factors **shall not** be used as criteria for establishing selection priorities:

- i. Type of disability.
- ii. Age, sex, race, color, creed, or national origin.
- iii. Type of expected employment outcome.
- iv. Income level of the individual or the individual's family.
- v. The need for specific services or anticipated costs of services required by the individual.

### **Continuity of Service Provision Under Order of Selection During the Implementation of an Order of Selection**

The State VR Agency shall:

- i. Continue to accept applications and make determinations of eligibility while notifying all eligible individuals of the priority categories, their assignment to a particular category, and their right to appeal this assignment.
- ii. Ensure that sufficient resources are available to meet these obligations.
- iii. Continue providing services that began under IPEs of eligible individuals developed prior to the effective date of the Order of Selection; and
- iv. Provide eligible individuals who do not meet the order of selection with information about, and referral to, other Federal and State programs that can assist them in achieving an employment goal.

## **General Administrative Requirements**

- i. When setting up the Order of Selection, DRS shall take into consideration all eligible individuals and prioritize their order of receiving services based solely on the criteria established for each priority category and on the time that they applied for services
- ii. The Order of Selection shall be implemented statewide. The same criteria for assigning all eligible individuals to priority categories shall be used in all areas of the state.
- iii. DRS, in consultation with the State Rehabilitation Council (SRC), shall describe and explain its order of selection policy and disseminate this policy to the public for review and comment prior to implementation.

This State Plan Attachment was presented to the constituency as part of mandated requirements in the preparation of this state plan. Full public input was provided at public meetings and the State Rehabilitation Council was consulted.

## **Order Of Selection Procedures**

1. When the Director of DRS has invoked an order of selection to prioritize the provision of VR services, each eligible individual will be assigned into one of the three (3) priority categories listed above based on how their disability(ies) meet the criteria for each priority category. If necessary, further prioritization within each priority categories will be done by placing all individuals who have been assigned to a particular category in an order that lists each individual according to the actual time that a completed application was submitted to DRS.
2. Assignment of individuals to priority categories shall be determined solely on the severity of the disability and how it seriously limits the functional capacities.
3. All applicants and eligible individuals impacted by the Order of Selection shall be notified in writing of the Order of Selection and their subsequent assignment to a particular priority classification. Included in the written notification will be their right to appeal the determination of their priority classification and the availability of the Client Assistance Program (CAP).
4. Assessment services necessary to determine eligibility (including services in trial work and extended evaluation) and priority for services shall not be impacted by the Order of Selection.
5. Individuals who are found to be eligible but whose category is closed at the time of eligibility determination shall be placed in an Order of Selection Deferred Status. These individuals will be given written notification of this placement. Procedures have been developed for initially notifying individuals of their “deferred status” and maintaining regular contact with these individuals to keep them apprised when or if circumstances change concerning their assigned category.
6. DRS will provide only information and referral services to all individuals in an Order of Selection Deferred Status. No other services, including no-cost IPE services, shall be provided to individuals in this status.

NOTE: If the individual's appeal results in their case moving to a more significant disability priority level and that level is eligible to receive services under the order of selection criteria, the individual shall be served at that level.

### **Information and Referral Services**

When an order of selection is in effect, DRS will provide all eligible individuals with disabilities who do not meet the order of selection criteria with information about, and referral to other Federal or State programs (including other components of the statewide workforce investment system) that can assist them in preparing for, securing, retaining, or regaining employment. An appropriate referral made through the system shall:

- i. Include, for each of these programs, provision to the individual of--
  - a. a notice of the referral by DRS to the agency carrying out the program;
  - b. information identifying a specific point of contact within the agency carrying out the program; and
  - c. Information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment.

### **Change In Priority Levels**

If the Director of DRS determines that resources are further limited to where the Order of Selection must be restricted to a higher priority, the field offices will be notified immediately in writing of the closure of the appropriate category (ies) and the date that this action becomes effective. All other procedures such as applicant/client notification of the new priority level, continuity of services that have begun for those individuals with IPEs, assessments, etc. shall continue as they did with the initial implementation of the Order of Selection.

If the Director of DRS determines that additional resources are available but are not sufficient to serve an entire category, individuals will be given written notice that their case may be activated from the Order of Selection Deferred Status in the category that was opened, in the order of their date of application. If additional resources are identified which are sufficient to serve all eligible individuals, the field offices will be notified immediately of the date that the order of selection will no longer be effective.

### **Case Service Checklist**

1. The counselor must have sufficient data, either through existing information or purchased assessments to assign a priority category for each individual determined to be eligible.
2. The counselor shall determine the eligible individual's priority category *before* the development of an IPE. This decision will be based solely on the documentation of severity of the disability and the documentation of functional limitations that clearly show that the individual meets the criteria to be classified as having disabilities that are most significant, significant or non-significant).
3. The case record shall contain sufficient documentation and rationale, which would support the individual's assignment to a particular priority category.

4. In instances where it is felt that the significance of the disability has increased or the individual's disability has improved to the point that a counselor or client believes a change in priority categories is justified, a reassessment will be implemented.
5. The priority category and the justification for that determination shall be communicated in writing or in another mode of communication that may be required by the eligible individual with documentation in the case file. This would include:
  - i. Original notification of priority category.
  - ii. Reclassification notification as a result of changes in the consumer's circumstances.
  - iii. Notification of non-reclassification following a review of the assignment to a priority category.

Each notification shall include the right to appeal and the availability of CAP.

### **Monitoring Individuals Placed in Deferred Status**

Individuals in Order of Selection Deferred Status shall be contacted at least once in the first 90 days after being placed in deferred status and counselors shall make a reasonable attempt to annually contact these individuals as long as they remain in that status. A record of these contacts will be kept in the case service records.

### **Closure**

Individuals not wanting to be in Order of Selection deferred status after being informed that their priority category is currently not open or individuals no longer interested in remaining in deferred status after the first 90 days or subsequent contact, will be closed from Order of Selection Deferred Status after they have been sent written notification of the agency's intent to close their case and their right to appeal the agency's decision to do so, including information on how to contact CAP. In addition, the individual will be informed that they may reapply for services in the future if circumstances that caused DRS to implement an order of selection change or to close their assigned priority category.